

REMARKS

Reconsideration and allowance are respectfully requested in light of the above amendments and the following remarks.

Applicant acknowledges with appreciation the indication in the Office Action of allowable subject matter in claims 10-12 and 23.

Claims 16, 17, 21 and 22 have been amended in light of section 1 of the office action.

Claims 10 and 23 have been amended to overcome the informalities noted in section 2 of the office action.

Regarding the rejection of claims 13-15 and 18-20 based on the "single means" prohibition under 35 USC 112, sixth paragraph, this rejection is respectfully traversed. Under U.S. law, such rejections apply to claims having a single "means plus function" element because 35 USC 112, sixth paragraph, states that only an element in a claim for a "combination" may be expressed as a means plus function element.

Each element of claims 13-15 and 18-20 is in non-means plus function format, and thus the "single means" prohibition under 35 USC 112, sixth paragraph, is inapplicable.

MPEP 2181 states:

"In determining whether to apply the statutory procedures of 35 U.S.C. 112, sixth paragraph, the examiner must determine

whether the applicant intends to invoke the statutory mandates for step- or means-plus-function clauses."

Further, as a general rule, the Federal Circuit accepts that the term "means," and particularly "means for," typically indicates an intent to invoke § 112, sixth paragraph, and the absence of such terms usually indicates an opposite intent. In other words, use of the term "means" generates a presumption that the claim element is subject to § 112, sixth paragraph, and conversely, lack of the word "means" gives rise to a presumption that § 112, sixth paragraph, does not apply. Thus, use of a different format than "means" or "means for" generally avoids application of § 112, sixth paragraph. See, *Greenberg v. Ethicon Endo-Surgery, Inc.*, 91 F.3d 1580, 1584, 39 USPQ2d 1783, 1786-87 (Fed. Cir. 1996). *Cole v. Kimberly-Clark Corp.*, 102 F.3d 524, 531, 41 U.S.P.Q.2d 1001, 1006 (Fed. Cir. 1996).

In the present case, the Applicants intend that all elements of their claims are in non-means-plus-function format.

Accordingly, the rejection of claims 13-15 and 18-20 based on the "single means" prohibition under 35 USC 112, sixth paragraph, is unwarranted and should be withdrawn.

In view of the above, it is submitted that this application is in condition for allowance and a notice to that effect is respectfully solicited.

If any issues remain which may best be resolved through a telephone communication, the Examiner is requested to telephone the undersigned at the local Washington, D.C. telephone number listed below.

Respectfully submitted,



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JEL/DWW/att

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